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5 Attorneys for Plaintiff TRUSTEES OF THE
 6 TRI-COUNTIES WELFARE TRUST FUND

7
UNITED STATES DISTRICT COURT
 8
FOR THE NORTHERN DISTRICT OF CALIFORNIA
 9
AT SAN JOSE

10 TRUSTEES OF THE TRI-COUNTIES
 11 WELFARE TRUST FUND,

12 Plaintiff,

13 v.

14 KELVIN HILDEBRAND, INC.,
 15 HILDEBRAND & SONS TRUCKING, INC.,
 WEST COAST DRAYAGE, HILDEBRAND
 16 BROTHERS TRUCKING, MORYA
 GULARTE TRUCKING, d/b/a MG
 TRUCKING, and KELVIN HILDEBRAND,

17 Defendant.

18 Case No. CV-07-5941 JW

19
**NOTICE TO DISMISS WITHOUT
 PREJUDICE
 [FRCP 41(a)(1)]**

20 Pursuant to FRCP 41(a)(1), and no Answer having been served by Defendant Morya Gularte
 21 Trucking d/b/a MG Trucking, Plaintiff Trustees of the Tri-Counties Welfare Trust Fund hereby
 dismisses the Complaint against Defendant Morya Gularte Trucking d/b/a MG Trucking **without**
 prejudice to refile.

22 Dated: July 28, 2008

Respectfully Submitted,

23
IT IS SO ORDERED:

24 BEESON, TAYER & BODINE, APC

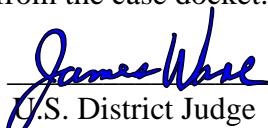
25 Defendant Morya Gularte d/b/a MG Trucking
 26 is dismissed without prejudice. The clerk shall By: _____
 terminate the defendant from the case docket.

/s/ Teague P. Paterson

TEAGUE P. PATERSON

Attorneys for Plaintiff TRUSTEES OF THE
 TRI-COUNTIES WELFARE TRUST FUND

27 Dated: July 30, 2008


 28 U.S. District Judge

PROOF OF SERVICE**U.S. DISTRICT COURT CASE NO. CV-07-5941 JW**

I declare that I am employed in the County of Alameda, State of California. I am over the age of eighteen (18) years and not a party to the within cause. My business address is 1404 Franklin Street, 5th Floor, Oakland, California 94612. On this day, I served the foregoing Document(s):

**NOTICE TO DISMISS WITHOUT PREJUDICE
[FRCP 41(a)(1)]**

By Mail to the parties in said action, as addressed below, in accordance with Code of Civil Procedure §1013(a), by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At Beeson, Tayer & Bodine, mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business in a United States mailbox in the City of Oakland, California:

Kelvin Hildebrand, President
KELVIN HILDEBRAND, INC.
6 Lewis Road
Watsonville, CA 95076

Dorothea M. Hildebrand, President
HILDEBRAND & SONS TRUCKING, INC.
6 Lewis Road
Watsonville, CA 95076

Kathleen Espinoza, Office Manager
HILDEBRAND BROTHERS
TRUCKING
635 San Juan Pass Road
Corralitos, CA 95076

KELVIN HILDEBRAND
6 Lewis Road
Watsonville, CA 95076

Diane Hildebrand, Owner
WEST COAST DRAYAGE
P.O. Box 400
Watsonville, CA 95077

By Personal Delivering a true copy thereof, to the parties in said action, as addressed below in accordance with Code of Civil Procedure §1011.

By Overnight Delivery to the parties in said action, as addressed below, in accordance with Code of Civil Procedure §1013(c), by placing a true and correct copy thereof enclosed in a sealed envelope, with delivery fees prepaid or provided for, in a designated outgoing overnight mail. Mail placed in that designated area is picked up that same day, in the ordinary course of business for delivery the following day via United Parcel Service Overnight Delivery.

By Facsimile Transmission to the parties in said action, as addressed below, in accordance with Code of Civil Procedure §1013(e).

I declare that the foregoing is true and correct. Executed in Oakland, California, on this date, July 29, 2008.

/s/Tanya Gatt
Tanya Gatt